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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,758	11/15/2001	Dearg S Brown	P 0283685	8990

909 7590 09/06/2002

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EXAMINER

SAEED, KAMAL A

ART UNIT	PAPER NUMBER
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1626

DATE MAILED: 09/06/2002 8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/936,758

Applicant(s)

BROWN, DEARG S

Examiner

Kamal A Saeed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-12 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Claims 1-12 are pending in this application.

#### *Election/Restrictions*

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Due to the numerous variables in the claims, e.g.  $R^1$ ,  $R^2$ ,  $R^3$ ,  $Q$  etc and their widely divergent meanings, a precise listing of inventive groups cannot be made. The following groups are exemplary:

**Group I** Claim(s) 1-10 drawn in part to compound of the formula I wherein each  $R^1$  and  $Q$  are non-heterocyclic group,  $R^2$ ,  $X$ ,  $R^3$ ,  $m$ ,  $n$  and  $q$  are as defined

**Group II** Claim(s) 1-8 and 10 in part to compounds and compositions of the formula I wherein each  $R^1$  is a morpholino group,  $Q$  is non-heterocyclic group,  $R^2$ ,  $X$ ,  $R^3$ ,  $m$ ,  $n$  and  $q$  are as defined

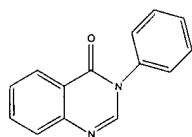
**Group III** Claim(s) 1-8 and 10 in part to compounds and compositions of the formula I wherein each  $R^1$  is a homopiperazinylmethyl group,  $Q$  is non-heterocyclic group,  $R^2$ ,  $X$ ,  $R^3$ ,  $m$ ,  $n$  and  $q$  are as defined

**Group IV** Claim(s) 1-8 and 10 in part to compounds and compositions of the formula I wherein each  $R^1$  is a non-heterocyclic group,  $Q$  is pyridazinyl group,  $R^2$ ,  $X$ ,  $R^3$ ,  $m$ ,  $n$  and  $q$  are as defined

**Group V** Claim 9 is drawn to a method of preparing compounds of formula I.

**Group VI** Claims 11 and 12 drawn to method of use of compounds of formula.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. Again, this list is not exhausted, as it would be impossible under the time constraints due to the sheer volume of subject matter instantly claimed. Therefore, applicant may choose to elect a single invention by identifying another specific embodiment not listed in the exemplary groups of the invention and examiner will endeavor to group the same. **If applicant is unable to elect a single invention, applicant may instead choose to elect a specific compound and examiner will attempt to group it.** The claims herein lack unity of invention under PCT Rule 13.1 and 13.2 since the compounds defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art. The compounds claimed in claims 1-27 have



, which does not define a contribution over the prior art. The substituents vary extensively and when taken as a whole result in vastly different compounds. Accordingly, unity of invention is considered to be lacking and restriction of the invention in accordance with the rules of unity of invention is considered to be proper. Additionally, the vastness of the claimed subject matter and the complications in understanding the claimed subject matter imposes a burden on any examination of the claimed subject matter.

The process of preparation and method of use claims will be rejoined with the elected invention and examined commensurate in scope therewith.

A telephone call was made to Donal J. Bird on 08/12/02 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal Saeed whose telephone number is (703) 308-4592. The examiner can normally be reached on Monday-Friday from 8:00 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308 4537. The unofficial fax phone for this group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate the Header (upper right) "Official" for papers that are to be entered into the file, and " Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

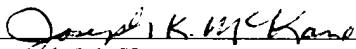
Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality

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requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

A facsimile center has been established. The hours of operation are Monday through 8:45AM to 4:45PM. The telecopier numbers for accessing the facsimile machine are (703) 308-4242, (703) 305-3592, and (703) 305-3014.

Kamal Saeed, Ph.D.,  
September 5, 2002

  
\_\_\_\_\_  
Joseph McKane  
Supervisory Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1